

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DENNIS BURBACK, et al.,

Plaintiffs,

v.

ROBERT OBLON, et al.,

Defendants.

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Civil Action No. 4:20-CV-946-SDJ

JURY TRIAL DEMANDED

**JOINT STIPULATION OF DISMISSAL WITH PREJUDICE
PURSUANT TO FED. R. CIV. P. 41(a)(1)(A)(ii)**

COME NOW both the Plaintiffs and the remaining defendants in this captioned case, Robert Oblon, Jeff Bollinger, and Custom Travel Holdings, Inc. (collectively referred to herein as “Defendants”), by and through their undersigned counsel, and pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), hereby stipulate to a dismissal of this action with prejudice as to the Defendants – with each side and party to bear its own costs and attorneys’ fees – as follows:

1. In accordance with Rule 41(a)(1)(ii), the parties jointly stipulate to the dismissal of this lawsuit with prejudice to refiling as to those claims Plaintiffs have asserted against Defendants, with each side and party to bear its own costs and attorneys’ fees in all respects.

2. Fed. R. Civ. P. 41(a)(1)(A) provides that Plaintiffs:

[M]ay dismiss an action without a court order by filing:

- (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii).

3. Defendant Robert Oblon filed an Answer (Dkt. 79) to Plaintiffs' First Amended Complaint (Dkt. 78).

4. Defendants Jeff Bollinger and Custom Travel Holdings, Inc., filed an Answer (Dkt. 65) Plaintiffs Complaint (Dkt. 1), but have not filed an answer to Plaintiffs' First Amended Complaint (Dkt. 78).

5. None of the Defendants have filed counterclaims against any one of the Plaintiffs in this action.

6. This case is not a class action, and no receiver has been appointed.

7. This case is not governed by any federal statute that requires a court order to dismiss the case outside the operation of Fed. R. Civ. P. 41.

8. Under these facts, a dismissal without court order is therefore appropriate and self-executing upon filing under Fed. R. Civ. P. 41(a)(1)(A). The parties stipulate and agree this case shall be dismissed as to those claims Plaintiffs have asserted against Defendants with prejudice, with each side and party to bear its own costs and attorneys' fees, and shall not work to prejudice Plaintiffs' rights to appeal, if any, with respect to any issues relative to other parties previously named in this lawsuit.

Respectfully submitted this the 8th day of August 2022.

By: <u>/s/ Stephen W. Abbott</u> Stephen W. Abbott Texas Bar No. 00795933 Tom Bayko Texas Bar No. 01864500 Matthew J.M. Prebeg Texas Bar No. 00791465 Christopher M. Faucett Texas Bar No. 00795198 Brent T. Caldwell Texas Bar No. 24056971 BAYKO, PREBEG, FAUCETT & ABBOTT PLLC	By: <u>/s/ Howard J. Klatsky</u> Howard J. Klatsky Texas State Bar No. 00786024 FEE, SMITH, SHARP & VITULLO, LLP Three Galleria Tower 13155 Noel Road, Suite 1000 Dallas, Texas 75240 Tel: 972-980-3494 Fax: 972-934-9200 hklatsky@feesmith.com COUNSEL FOR DEFENDANT ROBERT OBLON
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CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(h)-(i), the undersigned counsel confirms that counsel for the parties remaining before the Court have conferred with respect to the foregoing stipulation of dismissal with prejudice as stated herein (with each side and party to bear their own costs and attorneys' fees), and all are in agreement with the foregoing Joint Stipulation of Dismissal with Prejudice and have authorized me to file it on behalf of the parties.

/s/ Stephen W. Abbott
Stephen W. Abbott

CERTIFICATE OF SERVICE

I certify that on August 8, 2022, a true and correct copy of the foregoing document was served on all counsel of record through Court's electronic filing system.

/s/ Brent Caldwell
Brent Caldwell